

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DELISHA YOUNG, ET AL.,)
Plaintiffs,)
VS.) No. 18-2157-JDT-cgc
AMY WEIRICH, ET AL.,)
Defendants.)

ORDER DIRECTING PLAINTIFF LEE TO FILE AN UPDATED TRUST
ACCOUNT STATEMENT OR PAY THE FULL \$505 APPELLATE FILING FEE

Plaintiffs Delisha Young, Tatyana McGee, Emma McGee and Wendolyn Lee filed a joint *pro se* civil complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) All four Plaintiffs filed motions to proceed *in forma pauperis*. (ECF Nos. 2, 3, 4 & 5.) Plaintiff Lee is a prisoner who is incarcerated at the Shelby County Criminal Justice Center in Memphis, Tennessee. The Court granted each Plaintiff leave to proceed *in forma pauperis* and assessed Lee's share of the civil filing fee pursuant to the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 20 at 1-4.) On November 26, 2018, the Court dismissed the complaint *sua sponte* pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). (*Id.* at 6-12.) Judgment was entered on November 27, 2018. (ECF No. 22.) On December 17, 2018, Plaintiff Lee filed a notice of appeal. (ECF No. 27.)

Generally, a plaintiff granted leave to proceed *in forma pauperis* is not required to pay filing fees. 28 U.S.C. § 1915(a)(1). Because Plaintiff Lee is a prisoner, however, he must pay the entire \$505 appellate filing fee, although he may be able to take advantage of the installment

payment method of § 1915(b). *See McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013). In order to take advantage of the installment procedures, a prisoner plaintiff must submit, along with the notice of appeal, an updated *in forma pauperis* affidavit and inmate trust account statement. *Id.* at 610; 28 U.S.C. § 1915(a)(2).

In this case, although Plaintiff Lee submitted an *in forma pauperis* affidavit with his notice of appeal, he did not include an updated trust account statement. Therefore, at the present time, he is not eligible to take advantage of the installment procedures of § 1915(b). Lee is, however, liable to the Court for the full \$505 appellate filing fee, which accrued at the moment the notice of appeal was filed. Accordingly, Lee is hereby ORDERED to submit, within 30 days after the date of this order, either the full \$505 appellate filing fee or an updated trust account statement for the last six months.

If Plaintiff Lee fails to file the required documents in a timely manner, the Court will deny leave to appeal *in forma pauperis* and assess the entire \$505 filing fee from his inmate trust account without regard to the installment procedures, and the Sixth Circuit may dismiss the appeal for failure to prosecute. However, if Lee timely submits the required information and the Court finds that he is still indigent, the Court will grant leave to appeal *in forma pauperis* and assess the filing fee in accordance with the installment procedures of 28 U.S.C. § 1915(b).

The Clerk is directed to notify the Sixth Circuit of the entry of this order.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE